

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3 BEFORE THE HONORABLE LARRY R. HICKS, DISTRICT JUDGE

4 ORACLE USA, INC., a Colorado :
5 corporation; ORACLE AMERICA, :
6 INC., a Delaware corporation; :
7 and ORACLE INTERNATIONAL : No. 2:10-cv-0106-LRH-PAL
8 CORPORATION, a California :
9 corporation, :
10 Plaintiffs, :
11 vs. :
12 RIMINI STREET, INC., a Nevada :
13 corporation; and SETH RAVIN, :
14 an individual, :
15 Defendants. :
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TRANSCRIPT OF STATUS CONFERENCE

May 27, 2015

Reno, Nevada

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1 RENO, NEVADA, MAY 27, 2015, 1:30 P.M.

2 --oOo--

3 P R O C E E D I N G S

4

5 THE COURT: Good afternoon. Have a seat,
6 please.

7 COURTROOM ADMINISTRATOR: Today is the date and
8 time for status conference in civil case
9 2:10-cv-106-LRH-PAL, Oracle USA, Inc., and others, versus
10 Rimini Street, Inc., and others.

11 Counsel in the courtroom, can you please state
12 your appearances for the record.

13 MR. ISSACSON: Bill Issacson, Your Honor, Boies,
14 Schiller & Flexner, for the Oracle plaintiffs.

15 THE COURT: All right. You can remain at
16 counsel table. You don't have to make the trek up to the
17 podium.

18 MS. DUNN: Karen Dunn, of Boies, Schiller &
19 Flexner, also for the plaintiffs.

20 MR. HIXSON: Your Honor, Tom Hixson, with
21 Morgan, Lewis, also for plaintiffs.

22 MR. RINGGENBERG: Kiernan Ringgenberg, Boies,
23 Schiller, for the plaintiffs.

24 MR. POCKER: Your Honor, Richard Pocker, also
25 with Boies, Schiller, for the plaintiffs.

1 THE COURT: And welcome to all of you.

2 MR. WEBB: Good afternoon, Judge. Trent Webb,
3 with Shook, Hardy & Bacon, for the defendants.

4 MR. ALLEN: And West Allen, with Lewis Roca
5 Rothgerber, for defendants.

6 THE COURT: All right. Well, I welcome you to
7 the courtroom as well. This is our first court hearing on
8 this case for as much as it's been -- oh, let's cover the
9 telephonic before we deal with the in-persons.

10 MR. MAROULIS: Good afternoon, Your Honor. This
11 is James Maroulis, from Oracle, for plaintiffs.

12 MR. JADAL: Good afternoon. This is Nitin
13 Jadal, from Morgan Lewis & Bockius, for plaintiffs.

14 MR. STRAND: Good afternoon, Your Honor. My
15 name is Peter Strand. I'm with Shook, Hardy & Bacon. I'm
16 representing the defendants.

17 MR. RECKERS: Good afternoon, Your Honor. This
18 is Robert Reckers, Shook, Hardy & Bacon, also for the
19 defendants.

20 THE COURT: Anyone else by telephone?

21 All right. Apparently not.

22 Well, getting back to where I was, this is our
23 first hearing on this case, in spite of the fact that I
24 have no idea how many hours have been spent on this case,
25 certainly by those attending in the courtroom, an

1 incredible amount of hours in chambers as well with us.
2 But I know you spent time with Judge Leen. And I've been
3 in touch with her.

4 But in any event, as you know, I issued an order
5 a week and a half ago outlining our trial schedule, as I
6 saw it, coming up in Las Vegas and also raising the thought
7 that the trial would probably move along much more quickly,
8 or significantly more quickly, were it moved up to Reno,
9 allowing more trial time.

10 So I -- that's why we're here. So let's address
11 that first. Let me hear from Oracle with regard to their
12 thoughts.

13 MR. ISSACSON: Your Honor, Bill Issacson. And
14 technically my -- along with Karen Dunn, my pro hac vice
15 motion is still pending.

16 But we think of this as primarily an issue
17 between -- with the Court and the defendants. We're happy
18 to come to trial here. And we are particularly happy to
19 have a trial that moves along more expeditiously and a
20 place where there's more time for trial. But so we have no
21 reservations about having a trial here.

22 THE COURT: Okay. Thank you.
23 On behalf of defendant?

24 MR. WEBB: Good afternoon, Your Honor. This is
25 Trent Webb. I'm with Shook, Hardy & Bacon.

1 As modified, the Las Vegas schedule for the
2 defendants works great. Starting at noon on Monday, to
3 allow the Court and the court staff a more convenient way
4 to get to Las Vegas, works for us. And as a matter of
5 fact, if there are other modifications to the schedule, as
6 currently outlined, in Las Vegas that makes sense for the
7 Court and the court staff, we'd be more than happy to
8 entertain that.

9 But for the following reasons, we really believe
10 that this trial should take place in Las Vegas. And chief
11 among those reasons, Your Honor, is the named defendant,
12 Seth Ravin.

13 Mr. Ravin, as Your Honor is aware, has some
14 serious health issues, and they're fairly complicated, the
15 details of which I can't really get into in open court, but
16 we would be happy to provide additional details for Your
17 Honor if you believe that's to be necessary. But for this
18 afternoon, suffice it to say they're complicated and
19 serious.

20 The problem is that not all healthcare
21 facilities are created equal, and not all doctors are
22 created equal. Mr. Ravin has a long history of treatment
23 and a voluminous medical record. He's very comfortable
24 with his existing physicians. Going to a new place with
25 strange facilities and unknown doctors creates issues for

1 him and frankly for anyone in his position.

2 And couple that with being a named defendant in
3 a trial where the plaintiffs are seeking hundreds of
4 millions of dollars, and the very existence of his company
5 hanging in the balance, the combined effect of him going to
6 a strange and unknown treatment facility to take care of
7 his very serious issues at the same time he's spending
8 every day in court, I'm afraid creates a very stressful
9 environment, the results of which could be fairly serious.

10 So for that reason alone, even though certainly
11 we are cognizant of the convenience issues for the Court --
12 and going all the way to Vegas to try this case I'm sure is
13 not easy for you, your staff. And we wish there was a
14 solution that worked for everyone.

15 But, unfortunately, just given Mr. Ravin's
16 unique medical situation and his prominent role in this
17 trial and the future of which really depends on his
18 existence in the company and personal wealth, I think that
19 militates strongly in favor of keeping it in Vegas.

20 In addition to that -- again, we think that is
21 probably the most important and probably significant reason
22 to keep it in Vegas. In addition, Rimini's already made
23 some investment in preparing a trial site for the trial
24 team in the building that they currently have it for their
25 business. What they've done is they've built out a

1 significant part of an entire floor to house the trial team
2 during this long trial.

3 If we were to move and have trial here, that
4 investment would be wasted, at least until such time as
5 they put employees there. They would also have to make a
6 duplicate investment somewhere here to find trial space for
7 the team for this long trial. And for that reason, that
8 double expense makes it a hardship on a company the size of
9 Rimini Street.

10 A third reason, Your Honor, witness travel. The
11 flights to and out of Reno are certainly less frequent than
12 Las Vegas. And there are no nonstops between the cities
13 where counsel and our witnesses are located and Reno. And
14 that becomes somewhat of a problem.

15 For example, even today, Mr. Reckers was
16 planning to attend in person. Due to the floods in Houston
17 he missed his flight and there were no other options to get
18 here. Similarly, one of my clients, Jack Reilly, also had
19 problems getting here.

20 And, again, that is not dispositive. I mean,
21 there are places that are tough to get to. But weighing
22 the differences between Las Vegas and Reno, we certainly
23 think that's at least something that's relevant.

24 In particular, some of our staff had planned to
25 go home on the weekends, or at least one weekend, to see

1 their family. From Vegas there's a convenient flight to
2 get them home at 7:00 on Friday night. That's not
3 available here. So that may or may not allow that to
4 happen.

5 And, again, in the broad spectrum of things,
6 Your Honor, that's not a big deal. But when you have staff
7 with little kids at home, that is a fairly big deal to
8 them. So that's another reason why we would like to keep
9 it in Vegas.

10 And I could go on, Your Honor, if you would
11 like, or answer your questions. I have additional reasons.
12 But I don't know if I need to cover all of those.

13 THE COURT: No. Obviously I anticipated that
14 that might be your response. And I -- I don't have a
15 problem with that.

16 It also occurred to me in issuing that order
17 that it could be that everyone would be of the mind that
18 moving the trial along more quickly was paramount. But I
19 respect that if you don't. And I'll leave it in Las Vegas.

20 MR. WEBB: Thank you, Your Honor.

21 THE COURT: But I -- and you don't have any
22 problem with that modified schedule that we included in the
23 order; is that right?

24 MR. WEBB: Absolutely not, Your Honor.

25 THE COURT: All right. Does Oracle have any

1 problem at all with the schedule that's been outlined for
2 Las Vegas?

3 MR. ISSACSON: No, Your Honor.

4 THE COURT: All right. Well, it did occur to
5 me -- and what prompted all of this was that I had a lot of
6 trial time in Las Vegas in the last several months, and I
7 just realized that with a two- or three-day trial we can
8 accommodate coming in on a Sunday evening and leaving at
9 the end of the week. But with a lengthy trial like this,
10 obviously we can't.

11 But it did occur to me as I looked at the
12 daytime schedules -- I had hoped not to end promptly at
13 2:00 in the afternoon, but I also know in dealing with the
14 jury that that's a lot of trial time for jurors. So we may
15 see some tweaking to accommodate jurors more than anything
16 else. But right now we'll stick with the plan.

17 MR. WEBB: Thank you, Your Honor.

18 THE COURT: Okay. Are there any other issues
19 that -- well, let me ask counsel on the phone.

20 Counsel, those of you who are attending by
21 phone, is there anything that you would wish to add or
22 raise further with regard to this accommodation question?

23 MR. MAROULIS: This is James Maroulis for
24 Oracle. No, Your Honor.

25 THE COURT: All right. All right. Well, that

1 will be the plan. I'll confirm the trial in Las Vegas on
2 the schedule that's been posted in my order in document
3 number 552. There may be some minor tweaking to that
4 schedule, depending on how we move along. But essentially
5 that's what -- that's what will be the plan.

6 Are there any other matters that you would -- I
7 feel a little guilty seeing that everyone's traveled up
8 here just for this hearing. Maybe it's a little bit of
9 payback. But there may be something that someone would
10 like to raise.

11 MR. ISSACSON: I can -- no issues for you to --
12 certainly to decide today. We can bring you up to date on
13 a few things.

14 One question we did have in terms of the
15 mid-week schedule from 8:00 to 2:00 or later. What would
16 be the Court's -- is there a pattern you have for breaks
17 during that 8:00 to 2:00 --

18 THE COURT: Well, actually my normal trial
19 schedule is 8:30 in the morning until 5:30 or 5:15 in the
20 evening. But because of the medical issue concerning
21 Mr. Ravin, I thought I'd use the concentrated approach that
22 some of my fellow judges use, which is basically an 8:00 to
23 2:00 schedule without a lunch break. And what it is is a
24 snack break midway through the day. And that's probably
25 what we will be doing.

1 MR. ISSACSON: Okay. That's what -- that's the
2 way we were reading it. But I just wanted to make sure.

3 THE COURT: All right.

4 MR. ISSACSON: The -- in terms of the business
5 that the parties have been doing, defendant says he will
6 have seen and filed two motions in limine. We've initiated
7 a process of meeting and conferring with the defendants on
8 a global list of motions in limine from both sides and with
9 the hopes of perhaps some of these can be resolved,
10 unlikely many of them can't, and then to agree on a
11 briefing schedule so that many of these motions which are
12 worth resolving earlier than the ordinary schedule of 10
13 days before trial --

14 THE COURT: 30.

15 MR. ISSACSON: Right.

16 THE COURT: 30. But I recognize that you may --
17 and I encourage if you know you have a limine, if you know
18 you can't resolve it between you and it needs to be filed
19 and briefed and heard by the Court, I encourage you -- and
20 there's no reply on limines, as you know. There'll be
21 points and authorities opening it up and an appropriate
22 response, and we'll get to it.

23 But I strongly encourage moving those along.
24 I'm sure there's going to be a number. And we need time
25 for them too.

1 MR. ISSACSON: Right. So we're going to meet
2 and confer with the other side and we're going to talk
3 about page limits. And then I believe we're talking about
4 a briefing schedule that might end by late July or early
5 August, something like that. And we'll work it out with
6 the other side and present it to you.

7 And then the other issue before trial would be
8 the issue of jury instructions, and specifically the issue
9 of the licenses. Your Honor will recall that your summary
10 judgment rulings dealt with certain licenses and that there
11 are other licenses in the case. And so -- and Your Honor
12 will recall that you've been informed we would meet and
13 confer about possibly how to streamline the trial with
14 respect to those license issues, potentially through jury
15 instructions.

16 And we have met and conferred and been unable to
17 resolve differences on this. So Oracle will be filing a
18 motion asking the Court to consider those issues before
19 trial -- in advance of trial, in advance of when you would
20 ordinarily decide most of the jury instruction issues. And
21 we'll be filing that I think as early as today and
22 suggesting to the Court that -- and we'll confer with them
23 about a briefing schedule for that, but suggesting to
24 the -- it will assist in the preparation for the trial and
25 moving the trial along if we can know where we stand on

1 various legal issues as to the interpretation of the
2 licenses.

3 THE COURT: I appreciate your doing that,
4 obviously. And your commenting on it reminded me I should
5 have reviewed the entirety of the pretrial order before I
6 came in because I don't recall what I said with regard to
7 timing on proposed jury instructions.

8 But the instructions are so sensitive in a case
9 like this, the earlier you can get them in and -- well,
10 first of all, let me say this. I really hope that you can
11 agree upon the large bulk of instructions. I recognize
12 there's going to be some where there will be disagreement.
13 But I certainly encourage, recognizing all the -- all the
14 issues that are present in this case, that counsel are
15 working on those instructions early or attempting to
16 resolve them to every possible extent that you can.

17 And if you can't resolve them, I need to see why
18 they're not being resolved. I need the authorities in
19 support of each party's position; I need each party's
20 proposed instruction, if there's not agreement on a certain
21 issue; and I need those probably earlier than what my
22 pretrial order says.

23 MR. ISSACSON: All right. We will talk to the
24 other side also about the global -- all the pretrial
25 instructions -- all the jury instructions and certainly

1 will endeavor to agree on, you know, the most common ones
2 that the Court would give.

3 And then I did have a question then about jury
4 selection if you've got any -- anything that you would say
5 to the lawyers beforehand about how you typically handle
6 jury selection?

7 THE COURT: Yeah. My jury selection process is
8 essentially all voir dire is framed by the Court. So I
9 will take requested voir dire questions. I usually find
10 that they're broader and in more detail than is necessary.
11 And I'll attempt to work through everything that I feel
12 that's been raised as an issue in the proposed questions.

13 I'll use the questions themselves when -- I
14 encourage you to frame broader questions rather than
15 narrower ones because my experience is that when you have
16 jurors in the box they have had so little exposure,
17 particularly to patent-related cases, copyright-related
18 cases, IT cases that just general subject matters that
19 would catch the juror's attention and likely give them
20 something to respond on is the more effective way of moving
21 through the voir dire than trying to go through the
22 specific detailed questions that I sometimes receive from
23 either side.

24 But I will ask the questions. I will attempt to
25 cover every subject matter that I feel is appropriate

1 that's been raised in the requested questions. I'll use
2 some of those questions -- I like the ones that are broader
3 rather than narrower.

4 I do not like to ask jurors about what are your
5 feelings about this concept or that concept because that
6 invites having to go through it with every juror and tends
7 to make jurors uncomfortable. And the first jurors you
8 direct those kinds of questions to usually feel like
9 they've been put on the spot somehow.

10 So it's not a comfortable process. And I don't
11 like to use those kind of questions. I like to use tighter
12 questions, "Have you ever worked in an IT department?
13 Raise your hand." Or worked on -- how many of you are
14 involved with anything that has to do with da, da, da, da.
15 And I'll go through each one, see what they have to say. I
16 find that works very well in jury selection.

17 And I will also confer with counsel at sidebar
18 or when the jury's excused, either during the breaks --
19 we'll have to establish that break schedule because, as
20 I've said, that's not my normal trial schedule.

21 But in any event, I will meet with counsel --
22 I'll meet at sidebar if -- probably in most cases. And if
23 you have further questions that you'd like to have asked
24 individual jurors or to the jury in general, I'll consider
25 those.

1 And it seems like I've had, from my view, good
2 success doing it that way. I haven't had a problem, even
3 on the more technical cases.

4 And, of course, I will allow counsel to make a
5 record on anything they're not happy with. I take no
6 insult at that. I just don't want to waste time doing it.

7 MR. ISSACSON: All right. Thank you, Your
8 Honor.

9 THE COURT: Yes, Mr. Webb?

10 MR. WEBB: Just one last thing. Just for
11 clarity, Judge. Our understanding, I believe it's Oracle's
12 understanding, as well, that if we have an evidentiary
13 issue or an important dispute that we need resolution on
14 early, we should go ahead and file those, alert Your Honor
15 to the fact that these are important and need to be ruled
16 upon before we do our typical motions in limine that,
17 hopefully we can agree on them but in the unlikely event we
18 can't, we'll file those at a later time.

19 And by filing them early, we're not tolling the
20 decision, we're highlighting the importance so Your Honor
21 can make a decision relatively early. Is that the --

22 THE COURT: Well, I approve of that. I approve
23 of every bit of heads-up that you can give the Court. And
24 I can tell you that we will be working on that from the
25 get-go. I approve of that without question.

1 Coming back to trial and trial process, I do not
2 like to break up jury time for legal arguments. I am very
3 juror oriented. My view is you -- a trial judge's
4 principal role is to streamline the evidence for the jury.
5 Not that that's the Court's role, but I'm talking about the
6 trial process.

7 MR. WEBB: Sure.

8 THE COURT: So I'm loathe to excuse the jury for
9 a legal argument that could be raised in the morning before
10 we get started, in the evening after we've shut down, or
11 during some break during the case, particularly if it's not
12 going to unnecessarily extend the break.

13 So I am not a judge who wants an objection
14 raised with an expectation that I'm going to excuse the
15 jury while it be argued. I don't like to do that. I don't
16 like legal arguments being presented in front of the jury
17 either.

18 So my approach to that is to encourage any
19 dispute or conflict that's coming up over an issue to be
20 identified to me ahead of time, particularly during trial,
21 and we'll set a time to address it without wasting juror
22 time.

23 MR. WEBB: Understood, Your Honor. Thank you.

24 THE COURT: Okay.

25 MR. ISSACSON: I guess one last question, Your

1 Honor. And perhaps it can't be answered today. The
2 parties have obviously expressed different opinions about
3 the length of the trial. And maybe your rulings before
4 trial will have some effect on that. But I don't know if
5 there's going to become a point where you'll be accessing
6 the case and set any time limits on the trial.

7 We've obviously taken the view that this trial
8 should be done in three weeks or less, and we think the
9 plaintiffs can put on a case that's consistent with that.

10 But I don't know what the Court's -- if the
11 Court has a view as to how it's going to approach these
12 issues as we move forward.

13 THE COURT: I haven't found that it was
14 necessary to put time caps or time period caps on either
15 trials or portions of a case, for example, opening or
16 closing statements or anything else.

17 But I would consider doing it. Because I'm --
18 obviously with a case like this, where we have some -- such
19 a volume as we have, it could be that this would be the
20 case where I would feel that's appropriate. So I'm just
21 going to leave it open. I would obviously let anyone know
22 when we're headed that way.

23 Essentially Oracle's estimated three weeks;
24 Rimini's five to seven. I have a hard time imagining how
25 this case should go seven weeks, I'll tell you that right

1 now. It looks to me like it's somewhere between three to
2 four weeks, and just my rough assessment based on what I
3 know about the case.

4 But another point I would make relative to trial
5 is that when the issue of evidence is not authenticity, in
6 other words, the record, the issue, the testimony, whatever
7 it is, is undeniably authentic, the question usually just
8 becomes a ruling on the law of evidence or a ruling on
9 relevancy or, in some cases, 403 rulings where you're just
10 dealing with cumulative evidence or evidence that is not
11 essential to the case.

12 I like to see counsel to be able to stipulate to
13 authenticity, and then I'll hear the legal arguments and
14 I'll hear those as we move through the case, usually at
15 times outside the presence of the jury, before they've
16 started or after they've gone home. And I'll certainly
17 attempt -- it's clear to me we need -- we will be having
18 some hearings on this case between now and trial time,
19 depending on when these motions and so forth are presented.
20 But that's how I view it.

21 MR. ISSACSON: All right. Thank you. And
22 obviously the lawsuit involves two businesses, so hopefully
23 we'll have discussions about stipulations about business
24 records as well as authenticity.

25 THE COURT: Yeah. You know, and I would say too

1 I appreciate the quality of counsel that I've seen in this
2 case on both sides. But I think you know, and it's
3 certainly my observation from the bench, that the finer
4 points of evidentiary objections and foundational questions
5 for admission of records and everything else, when
6 authenticity is not at issue, can frustrate a jury faster
7 than anything I've seen in litigation practice. It's
8 damaging to whichever party is identified as being
9 responsible for that when it becomes excessive.

10 And, you know, I think I'm a fair judge. I try
11 and give everyone their fair presentation of the evidence.
12 But it's hard to hold back on that frustration when you see
13 someone who is stretching a case out more than it needs to
14 be stretched out.

15 But -- and if anyone feels that I am showing my
16 frustration at an inappropriate time, I take no offense at
17 being reminded either. But my view is we get these trials
18 in, we have certain issues that are obviously tantamount to
19 the parties. Those need to be presented. The evidence
20 needs to go to them. The jury needs to be tracking with
21 all of that without anyone getting sidetracked. And that's
22 what I hope I can say has happened at the end of a trial.

23 MR. ISSACSON: Thank you, Your Honor. That's
24 helpful.

25 THE COURT: All right. Yes?

1 MR. WEBB: Nothing further from the defendants,
2 Your Honor. Thank you.

3 THE COURT: All right. Is there anything
4 further from any of our counsel appearing by telephone?

5 MR. MAROULIS: This is James Maroulis, Your
6 Honor, for the plaintiffs. No.

7 THE COURT: All right.

8 MR. STRAND: Peter Strand for the defendants.
9 Nothing from this side either, Your Honor.

10 THE COURT: All right. Well, I appreciate
11 everyone's attention. I -- you do have a settlement
12 conference coming up on this sometime soon, don't you?

13 MR. WEBB: Next week, Your Honor.

14 THE COURT: I'm going to wish you luck on that.
15 Judge Leen reminded me that was coming up. But, again, you
16 know, from what I've seen of these cases, they are better
17 settled than litigated. Look how long this case has taken
18 already and how much longer it's likely to go if you go to
19 trial and someone gets burned one way or the other. We're
20 looking at appeals that go on ad nauseam. So I strongly
21 urge very serious attempt at settlement.

22 But all of that stated, I'll bid you ado. Have
23 pleasant flights back to wherever you're flying back to. I
24 hope you are able to make connections. And we'll try this
25 case in Las Vegas.

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Court is adjourned.

COURTROOM ADMINISTRATOR: Please rise.

(The proceedings concluded at 2:00 p.m.)

* * *

-o0o-

I certify that the foregoing is a correct
transcript from the record of proceedings
in the above-entitled matter.



6/8/15

Donna Davidson, RDR, CRR, CCR #318
Official Reporter

Date